

EXHIBIT 3

Argus Leader

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Feb. 25, 2011

Administrator
USDA Food and Nutrition Serv
3010 Park Center Dr.
Alexandria, VA 22302

RE: FOIA APPEAL

Dear Sir or Madam:

This is an appeal of a Freedom of Information Act request that was denied on Feb. 17, 2011.

We requested the following data from the FNS STARS database for fiscal years 2005 through 2010:

- Store identifier, or unique ID number
- Store name
- Store address
- Store type
- The yearly redemption amounts, or EBT sales figures, for each store.

Your office provided only a partial, incomplete list of the store names and addresses. In addition, your office wrongly denied releasing the other information based on a misreading of the Food and Nutrition Act, 7 U.S.C. 2018 (9)(c) and Title 7, Part 278 of Federal regulations at 278.1 (q). Based upon this, your office inappropriately applied FOIA exemptions (b)(3) and (b)(4) in denying the request for public information.

FOIA exemption (b)(3) applies to information exempt from disclosure by statute. The Food and Nutrition Act explicitly exempts from disclosure "relevant income and sales tax filing documents." No part of our denied request included tax filings, or for that matter, information that would have been included in tax filings, which is information submitted by businesses when they apply to participate in the Supplemental Nutrition Assistance Program.

FOIA exemption (b4) relates specifically to trade secrets and financial information obtained from businesses. Businesses that apply to participate in the Supplemental Nutrition Assistance Program are required to submit an array of information, including actual or expected gross sales. The *Argus Leader's* FOIA request did not ask for gross sales. Instead, the request asked for the amounts that each business received from taxpayers during the calendar years 2005 – 2010 by participating in the SNAP program. That is not information provided by the business; it is public information kept by the department.

Similarly, store identifiers or unique ID numbers and store types are not information provided by businesses, but instead it is information created by the department. Title 7, Part 278 at 278.1 (q) relates specifically to the "Use and disclosure of information provided by firms." None of the information your department denied in our FOIA request was provided by a business.

The department routinely releases similar information in other programs. For example, the amounts farmers receive in agriculture subsidies are publicly available. It should be no different for businesses that participate in the Supplemental Nutrition Assistance Program.

Taxpayers have a right to know who receives their money and how much they get for providing services on behalf of the government. The release of this information is clearly in the public's interest.

We look forward to the release of the information we requested in this appeal. In addition, we ask that you waive any fees because disclosure is in the public's interest.

Thank you for your help in this matter. Please feel free to contact me with any questions.

Sincerely,

Jonathan Ellis
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